

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES)	
)	
v.)	CRIM. NO. 03-10370-DPW
)	
GARY NEWELL,)	
)	
)	
Defendant)	
_____)	

**DEFENDANT GARY NEWELL'S ASSENTED TO
MOTION FOR ADDITIONAL TIME TO FILE
WRITTEN PROFFER OF EXPERT OPINIONS**

Defendant Gary Newell respectfully requests that the Court postpone the filing deadline for his written proffer regarding drug detector dog expert testimony in this case from August 5 until August 12, 2005. As reason therefore, undersigned counsel states the following:

1. The defendant is charged with conspiracy to distribute marijuana in this case. The Government's case, in part, is based upon items seized from the defendant's truck on January 24, 2003 as a result of the use of a Massachusetts State Police canine unit known as Mako during a motor vehicle stop.
2. In August of 2004, defense counsel retained Dr. Dan Craig, an expert in the field of canine training related to law enforcement drug investigations, to testify at his motion to suppress hearing and trial.
3. On July 18, 2005, Dr. Craig notified defense counsel that he was experiencing sudden, debilitating medical

problems that made travel to Massachusetts for the motion to suppress hearing on July 26, 2005 impossible.

4. On July 29, 2005, the Court ordered the defendant to file a written proffer of its expert's anticipated testimony in the case by August 5, 2005.
5. Since July 19, 2005, defense counsel has been striving to locate a qualified detection dog expert who is available to review the relevant documents and provide opinions on the key issues in the case within the time frame ordered by the Court. To date, counsel has spoken at length with four qualified experts. Unfortunately, given their summer vacation schedules, none of these experts is available both to review the documents by August 5, 2005 deadline and to appear in court to testify on August 31, 2005.
6. Defense counsel is continuing her efforts to secure the services of a substitute expert as quickly as possible. Consequently she is requesting that the Court extend the filing deadline for her written proffer one week to try to complete this project.

WHEREFORE, undersigned counsel respectfully requests that the filing deadline for her written proffer concerning expert testimony be extended from August 5 until August 12, 2005. The Government assents to this filing date extension.

Dated: August 4, 2005

Respectfully submitted,
Gary Newell,
By his attorney,

/s/Debra A. DelVecchio
Debra A. DelVecchio
B.B.O. No. 542139

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing motion and its supporting affidavit of counsel were delivered to AUSA Rachel Hershsfang by FAX to (617) 748-3965 and by email through the PACER system on August 4, 2005.

/s/ Debra A. DelVecchio
Debra A. DelVecchio

AFFIDAVIT OF COUNSEL

Debra A. DelVecchio, being duly sworn, deposes and states that the following is true based upon my information and belief:

1. I was appointed to represent Gary Newell, an indigent defendant, in the above-entitled case which is currently pending before Judge Douglas P. Woodlock in the United States District Court.
2. Based upon my review of the case, including the documents provided by the prosecution during discovery, I need to hire an expert in the field of canine training and deployment in law enforcement drug investigations to testify at the motion to suppress hearing and trial in this case.
3. All of the information contained in my foregoing motion is true to the best of my knowledge and belief, and is incorporated into this affidavit as if fully recited here.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS
4th DAY OF AUGUST, 2005.

/s/ Debra A. DelVecchio
Debra A. DelVecchio
B.B.O. No. 542139